

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1095 of 1996

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ORIENTAL INSURANCE CO LTD

Versus

BHALABHAI TAPABHAI

Appearance:

MR RAJNI H MEHTA for Appellant

MR. ANIL BAROT for Respondent No.1

CORAM : MR.JUSTICE Y.B.BHATT

Date of decision: 20/09/96

ORAL JUDGEMENT

1. Heard the learned counsel for the respective parties. Appeal admitted. Mr. Anil Barot waives service on behalf of respondent no.1. Respondent no.2 is absent though served.
2. At the joint request of learned counsel for the respective parties this appeal is taken up for final hearing today.
3. The only contention raised by learned counsel for the appellant is that the Tribunal has decided the

application of the first respondent under section 140 of the Motor Vehicles Act, without going into the objections and contentions of the insurer on merits. The Tribunal has in this context observed that the defences open to the Insurer-company under section 149(2) of the Motor Vehicles Act are not available to the Company at that stage.

4. Without going into the legal validity of such observation or finding, as a result of the discussion, a consensus has been arrived at between the learned counsel for the respective parties. Accordingly it is agreed that the impugned judgement and order be quashed and set aside, and the matter be remanded back to the Tribunal for a re-hearing and a decision on merits, after considering and hearing the Insurer on all the objections and defences raised by it before the Tribunal.

5. In the light of the above-stated consensus, the impugned judgement and award are quashed and set aside, and the matter is remanded back to the Tribunal for a fresh decision in the light of the aforesaid observations. This appeal is accordingly disposed of with no order as to costs.

6. The Tribunal shall accord due priority to the remanded matter and shall dispose of the same as expeditiously as possible, preferably before 31st December 1996. Direct service permitted.
